

**HAMILTON  
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PATENTS, TRADEMARKS  
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**TTAB**

<b>CERTIFICATE OF MAILING</b>	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.	
on <u>10/18/06</u>	<u>Jacqueline Foley</u>
Date	Signature
<u>Jacqueline Foley</u>	
Typed or printed name of person signing certificate	

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

RE: Olivio Premium Products Corporation  
v. Chef Bobo Brand, Inc.

Dear Sirs:

Enclosed for filing is a Notice of Opposition in duplicate, transmittal letter, and a check in the amount of \$300.00. Please stamp and return the enclosed postcard to acknowledge the receipt of these items.

Please charge any deficiency or credit any overpayment in the fees that may be due in this matter to Deposit Account No. 08-0380. A copy of this letter is enclosed for accounting purposes.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By John L. DuPré  
John L. DuPré

JLD/jf  
enclosure

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10-20-2006

U.S. Patent & TMO/TM Mail Rpt Dt. #30

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X  
OLIVIO PREMIUM PRODUCTS )  
CORPORATION, )  
 )  
Opposer, )  
 )  
 )  
v. ) Opposition No.  
 )  
CHEF BOBO BRAND, INC., )  
 )  
Applicant. )  
-----X

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<u>JACQUELINE FOLEY</u>	
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**NOTICE OF OPPOSITION**

In the matter of an application for registration of the trademark OLIVIO'S A  
DISTINCTIVE CULINARY LIFESTYLE and design, Serial. No. 78/737,563, filed October 20,  
2005, by Chef BoBo Brand, Inc. of Los Angeles, CA and published for Opposition in the Official  
Gazette of June 20, 2006, on Page 217.

Olivio Premium Products Corporation, a Delaware corporation, having its principal place  
of business at 17 Arlington St., Boston, MA, believes that it would be damaged by registration of  
the mark as sought in the foregoing application and hereby opposes the same.

The grounds of the opposition are as follows:

1. By the application herein opposed, Applicant seeks to register a trademark consisting of the words OLIVIO'S A DISTINCTIVE CULINARY LIFESTYLE and design, under Application Serial No. 78/737563, (hereinafter the "OLIVIO'S trademark") for goods in Classes 29 and 30. The application for the OLIVIO'S trademark was filed on October 20, 2005 and was published for opposition on June 20, 2006. This Opposition opposes the registration of such mark.

2. The opposed application for the registration of the OLIVIO'S trademark was filed based on alleged use of the mark on May 1, 2005 and alleged use in commerce on May 1, 2005.

3. Opposer is the owner of all right, title, and interest in the OLIVIO trademark for use in connection with food products with a focus on olive oil spreads.

4. Opposer's OLIVIO trademark was first adopted and has been used continuously by Opposer in connection with its food products since July 28, 1993. Such use predates the the alleged first date of use by Applicant by over ten years.

5. Opposer's OLIVIO trademark is of significant value to Opposer as an identification of source in connection with the promotion and offering of its goods. Opposer's OLIVIO trademark distinguishes its goods from the goods of others and the mark has acquired substantial secondary meaning in the minds of consumers.

6. Opposer registered its OLIVIO trademark in the United States Patent and Trademark Office on June 6, 1995, as Registration No. 1,898,421, for use in connection with food products in Class 29.

7. The OLIVIO trademark as used and registered by Opposer for its goods and the principal word component of the OLIVIO'S trademark as sought to be registered by Applicant are confusingly similar. The proposed use of the OLIVIO'S trademark by Applicant would so resemble Opposer's registered OLIVIO mark as to be likely to cause confusion, or to cause mistake or to deceive.

8. The goods identified in Applicant's application are related to the goods that Opposer provides under the OLIVIO trademark. Upon information and belief, Applicant will be marketing its goods under the OLIVIO'S trademark to customers or potential customers of Opposer, such that customers and others in the trade would be confused into believing that there would be some connection between Applicant's goods marketed under the OLIVIO'S trademark and the well-known and well-recognized OLIVIO goods of Opposer.

9. Through the use and promotion of Opposer's OLIVIO trademark in connection with its goods for over thirteen (13) years, purchasers and prospective purchasers of such goods, and of goods in the same general class, and customers and prospective customers of Opposer have come to associate the OLIVIO trademark with the goods and business of Opposer.

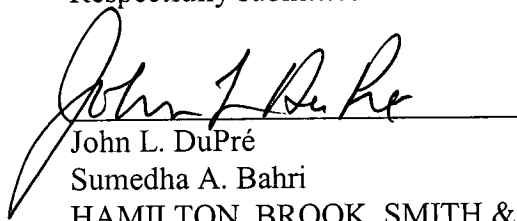
10. Purchasers and customers, as well as prospective purchasers and customers, familiar with Opposer's business identified by the OLIVIO trademark are likely to be misled into believing, contrary to fact, that Applicant's goods provided under the OLIVIO'S trademark opposed herein, emanate from or are in some way sponsored by Opposer, all to Opposer's irreparable damage through loss and/or dilution of its goodwill as symbolized by the OLIVIO trademark.

11. Granting of the registration for the OLIVIO'S trademark as sought by Applicant, through the application herein opposed, would place Applicant in a position to harass and cause annoyance to Opposer and its customers, to the damage of Opposer. Such registration would inhibit Opposer in its use of its OLIVIO trademark in promoting its business which would manifest damage upon Opposer. Finally, such registration would constitute *prima facie* evidence of an exclusive right of Applicant to use the OLIVIO'S trademark for the goods identified in its application herein opposed and for all confusingly similar uses, thereby enabling Applicant to occupy a position in the trade that would further compound confusion on the part of the purchasing public all to the damage of Opposer.

WHEREFORE, Opposer Prays that the application of Serial No. 78/737,563, filed October 20, 2005, for registration of the OLIVIO's trademark in Class 29 and Class 30, be refused and that this Opposition be sustained.

Dated: October 18, 2006

Respectfully submitted

  
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